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RICHARD W. WIEKING  
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NORTHERN DISTRICT OF CALIFORNIA

1 Thomas P. Riley, SBN 194706  
2 LAW OFFICES OF THOMAS P. RILEY, P.C.  
3 First Library Square  
4 1114 Fremont Avenue  
5 South Pasadena, CA 91030-3227

6  
7 Tel: 626-799-9797  
8 Fax: 626-799-9795  
9 TPRLAW@att.net

10 Attorneys for Plaintiff  
11 J & J Sports Productions, Inc.

12 UNITED STATES DISTRICT COURT  
13 FOR THE  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

CV 13-05553  
PSG

16 J & J SPORTS PRODUCTIONS, INC.,

17 Case No.:  
18 Plaintiff,

19 COMPLAINT

20 vs.

21 JAVIER SALAS and APOLIN CASTRO,  
22 individually and d/b/a TAQUERIA EL  
23 CAMINITO,

24 Defendants.

25 PLAINTIFF ALLEGES:

26 JURISDICTION

27 1. Jurisdiction is founded on the existence of a question arising under particular statutes. This  
28 action is brought pursuant to several federal statutes, including the Communications Act of 1934,  
as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection and  
Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*, and California B&P  
Section 17200, a California state statute.

1       2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C.  
2 Section 1331, which states that the District Courts shall original jurisdiction of all civil actions  
3 arising under the Constitution, laws, or treaties, of the United States. This Court has subject matter  
4 jurisdiction over the state law claims pursuant to 28 U.S.C. § 1337 (supplemental jurisdiction).

5       3.     This Court has personal jurisdiction over the parties in this action as a result of the  
6 Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the  
7 exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at  
8 length. The Defendants' wrongful acts consisted of the interception, reception, publication,  
9 divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the  
10 control of the Plaintiff in the State of California constituting an unfair business practice in violation  
of the law, including specific California state statutes, more particularly set forth below.

## **VENUE**

14 4. Pursuant to Title 47 U.S.C. Section 605, venue is proper in the Northern District of  
15 California, because a substantial part of the events or omissions giving rise to the claim occurred in  
16 this District and/or because, *inter alia*, all Defendants' reside within the State of California (28  
U.S.C. § 1391 (b) and 28 U.S.C. § 84(c)(2)).

## **INTRADISTRICT ASSIGNMENT**

19  
20       5. Assignment to the San Jose Division of the Northern District of California is proper  
because a substantial part of the events or omissions giving rise to the claim occurred in Santa  
21 Clara County and/or the United States District Court for the Northern District of California has  
22 decided that suits of this nature, and each of them, are to be heard by the Courts in this  
23 particular Division.

## **THE PARTIES**

26       6. Plaintiff, J & J Sports Productions, Inc. is, and at all relevant times mentioned was, a  
27 California corporation with its principal place of business located at 2380 South Bascom Avenue,  
Suite 200, Campbell, California 95008.

1       7.     Defendant Javier Salas is an owner, and/or operator, and/or licensee, and/or permittee,  
2 and/or person in charge, and/or an individual with dominion, control, oversight and management  
3 of the commercial establishment doing business as Taqueria El Caminito operating at 782 North  
4 13th Street, San Jose, California 95112.

5       8.     Defendant Apolin Castro is an owner, and/or operator, and/or licensee, and/or permittee,  
6 and/or person in charge, and/or an individual with dominion, control, oversight and management  
7 of the commercial establishment doing business as Taqueria El Caminito operating at 782 North  
8 13th Street, San Jose, California 95112.

9  
10      9.     Defendant Javier Salas is also one of two individuals (the other being Defendant  
11 Apolin Castro) specifically identified on the Department of Environmental Health issued by the  
12 City of Santa Clara.

13      10.    Defendant Apolin Castro, is also one of two individuals (the other being Defendant Javier  
14 Salas) specifically identified on the Department of Environmental Health issued by the City of  
15 Santa Clara.

16  
17      11.    Plaintiff is informed and believes, and alleges thereon that on December 8, 2012 (the night  
18 of the *Program* at issue herein, as more specifically defined in paragraph 18), Defendant Javier  
19 Salas had the right and ability to supervise the activities of Taqueria El Caminito, which included  
20 the unlawful interception of Plaintiff's *Program*.

21      12.    Plaintiff is informed and believes, and alleges thereon that on December 8, 2012 (the night  
22 of the *Program* at issue herein, as more specifically defined in paragraph 18), Defendant Apolin  
23 Castro had the right and ability to supervise the activities of Taqueria El Caminito, which included  
24 the unlawful interception of Plaintiff's *Program*.

25  
26      13.    Plaintiff is informed and believes, and alleges thereon that on December 8, 2012 (the night  
27 of the *Program* at issue herein, as more specifically defined in paragraph 18), Defendant Javier  
28 Salas, as an individual specifically identified on the Department of Environmental Health for  
Taqueria El Caminito, had the obligation to supervise the activities of Taqueria El Caminito, which

1 included the unlawful interception of Plaintiff's *Program*, and, among other responsibilities, had  
2 the obligation to ensure that the business license was not used in violation of law.  
3

4 14. Plaintiff is informed and believes, and alleges thereon that on December 8, 2012 (the night  
5 of the *Program* at issue herein, as more specifically defined in paragraph 18), Defendant Apolin  
6 Castro, as an individual specifically identified on the business license for Taqueria El Caminito,  
7 had the obligation to supervise the activities of Taqueria El Caminito, which included the unlawful  
8 interception of Plaintiff's *Program*, and, among other responsibilities, had the obligation to ensure  
9 that the business license was not used in violation of law.  
10

11 15. Plaintiff is informed and believes, and alleges thereon that on December 8, 2012 (the night  
12 of the *Program* at issue herein, as more specifically defined in paragraph 18), Defendants Javier  
13 Salas and Apolin Castro, specifically directed the employees of Taqueria El Caminito to  
14 unlawfully intercept and broadcast Plaintiff's *Program* at Taqueria El Caminito or that the actions  
15 of the employees of Taqueria El Caminito are directly imputable to Defendants Javier Salas and  
16 Apolin Castro by virtue of their acknowledged responsibility for the actions of Taqueria El  
17 Caminito.  
18

19 16. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of  
20 Plaintiff's *Program*, as supervised and/or authorized by Defendants Javier Salas and Apolin  
21 Castro, resulted in increased profits for Taqueria El Caminito.  
22

23 **COUNT I**

24 **(Violation of Title 47 U.S.C. Section 605)**

25 17. Plaintiff J & J Sports Productions, Inc., hereby incorporates by reference all of the  
26 allegations contained in paragraphs 1-16, inclusive, as though set forth herein at length.  
27

28 18. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., was granted the exclusive  
nationwide commercial distribution (closed-circuit) rights to *Manny Pacquiao v. Juan Manuel*  
*Marquez, IV Welterweight Fight Program*, telecast nationwide on Saturday, December 8, 2012  
(this included all under-card bouts and fight commentary encompassed in the television broadcast  
of the event, hereinafter referred to as the "*Program*").  
29

1       19. Pursuant to contract, Plaintiff J & J Sports Productions, Inc., entered into subsequent  
2       sublicensing agreements with various commercial entities throughout North America, including  
3       entities within the State of California, by which it granted these entities limited sublicensing rights,  
4       specifically the rights to publicly exhibit the *Program* within their respective commercial  
5       establishments in the hospitality industry (i.e., hotels, racetracks, casinos, bars, taverns, restaurants,  
6       social clubs, etc.).

7       20. As a commercial distributor and licensor of sporting events, including the *Program*,  
8       Plaintiff J & J Sports Productions, Inc., expended substantial monies marketing, advertising,  
9       promoting, administering, and transmitting the *Program* to its customers, the aforementioned  
10      commercial entities.

11      21. With full knowledge that the *Program* was not to be intercepted, received, published,  
12      divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every  
13      one of the above named Defendants, either through direct action or through actions of employees  
14      or agents directly imputable to Defendants (as outlined in paragraphs 7-16 above), did unlawfully  
15      intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its  
16      transmission at their commercial establishment in San Jose, California located at 782 North 13th  
17      Street, San Jose, California 95112.

18      22. Said unauthorized interception, reception, publication, exhibition, divulgence, display,  
19      and/or exhibition by each of the Defendants was done willfully and for purposes of direct and/or  
20      indirect commercial advantage and/or private financial gain.

22      23. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of  
23      communications (such as the transmission of the *Program* for which Plaintiff J & J Sports  
24      Productions, Inc., had the distribution rights thereto).

25      24. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of  
26      them, violated Title 47 U.S.C. Section 605, *et seq.*

27      ///

28

1       25. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, Plaintiff  
2 J & J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section  
3 605.  
4

5       26. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 605,  
6 and pursuant to said Section 605, Plaintiff J & J Sports Productions, Inc., is entitled to the  
7 following from each Defendant:  
8

- 9
- 10             (a) Statutory damages for each willful violation in an amount to  
11                     \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also  
12             (b) the recovery of full costs, including reasonable attorneys' fees,  
13                     pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).  
14

15             **WHEREFORE, Plaintiff prays for judgment as set forth below.**

16

17             **COUNT II**

18             **(Violation of Title 47 U.S.C. Section 553)**

19

20       27. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-  
21       26, inclusive, as though set forth herein at length.  
22

23

24       28. The unauthorized interceptions, reception, publication, divulgence, display, and/or  
25       exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C.  
26       Section 553, *et seq.*  
27

28

29. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of  
30       them, violated Title 47 U.S.C. Section 553, *et seq.*  
31

32

33       30. By reason of the Defendants' violation of Title 47 U.S.C. Section 553, *et seq.*, Plaintiff  
34 J & J Sports Productions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section  
35 553.  
36

1       31. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 553,  
2 Plaintiff J & J Sports Productions, Inc., is entitled to the following from each Defendant:

- 3             (a) Statutory damages for each violation in an amount to  
4                     \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also  
5  
6             (b) Statutory damages for each willful violation in an amount to  
7                     \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also  
8  
9             (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553  
10                     (c)(2)(C); and also  
11  
12             (d) and in the discretion of this Honorable Court, reasonable attorneys' fees,  
13                     pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

14  
15             **WHEREFORE, Plaintiff prays for judgment as set forth below.**

16                     COUNT III

17                     (**Conversion**)

18       32. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-  
19             31, inclusive, as though set forth herein at length.

20       33. By their aforesaid acts of interception, reception, publication, divulgence, display, and/or  
21             exhibition of the *Program* at their commercial establishment at the above-captioned address, the  
22             aforementioned Defendants, and each of them, tortuously obtained possession of the *Program* and  
23             wrongfully converted same for their own use and benefit.

24  
25       34. The aforesaid acts of the Defendants were willful, malicious, egregious, and intentionally  
26             designed to harm Plaintiff J & J Sports Productions, Inc., by depriving Plaintiff of the commercial  
27             license fee to which Plaintiff was rightfully entitled to receive from them, and in doing so, the  
28             Defendants subjected the Plaintiff to severe economic distress and great financial loss.

35. Accordingly, Plaintiff J & J Sports Productions, Inc., is entitled to both compensatory, as well as punitive and exemplary damages, from aforementioned Defendants as the result of the Defendants' egregious conduct, theft, and conversion of the *Program* and deliberate injury to the Plaintiff.

**WHEREFORE**, Plaintiff prays for judgment as set forth below.

**COUNT IV**

(Violation of California Business and Professions Code Section 17200, *et seq.*)

36. Plaintiff hereby incorporates by reference all of the allegations contained in Paragraphs 1-  
35, inclusive, as set forth herein at length.

12       37. By contract, Plaintiff J & J Sports Productions, Inc., was granted exclusive domestic  
13 commercial exhibition closed-circuit rights to the *Program*.

38. Plaintiff did not authorize transmission, interception, reception, divulgence, exhibition, or display of the *Program* to the general public, persons at large, or to the commercial establishment operated by the foregoing Defendants, or any of them.

39. With full knowledge that the Program was not to be intercepted, received, published, divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every one of the above named Defendants either through direct action or through actions of employees or agents directly imputable to Defendants by virtue of their respective positions and authority did unlawfully intercept, receive, publish, divulge, display, and/or exhibit the Program at the real time transmission of the *Program*'s broadcast at the commercial establishment, as more particularly indicated and identified above.

40. Plaintiff is informed and believes and alleges thereon that the Defendants and/or their agents, servants, workmen, or employees performed the aforementioned acts knowingly, willfully and to confer a direct or indirect commercial advantage and/or pirate financial gain to the

1 Defendants, to the detriment and injury of Plaintiff and its business enterprise as a commercial  
2 distributor and closed-circuit licensor of sports and entertainment television programming.

3 41. The Defendants' unauthorized interception, publication, divulgence and/or exhibition was  
4 done by the Defendants wantonly, recklessly, and without regard whatsoever for the intellectual  
5 property rights of the Plaintiff.

6 42. The aforementioned unlawful acts of each of the Defendants constituted, unlawful, untrue,  
7 fraudulent, predatory, unfair, and deceptive trade practices, and by reason of the aforementioned  
8 conduct, the Defendants, and each of them, violated California and Professions Code Section  
9 17200, *et seq.*

10 43. As a proximate result of the aforementioned acts attributable to the Defendants, Plaintiff  
11 has been permanently deprived of the patronage of current, previous and potential customers of the  
12 sports and entertainment programming it licenses commercially to the hospitality industry, all to its  
13 severe financial injury and loss in a sum to be determined at trial.

14 44. By reason of the Defendants' violation of California Business and Professions Code Section  
15 17200, *et seq.*, Plaintiff J & J Sports Productions, Inc. is entitled to restitution for its injuries, the  
16 disgorgement and turn-over of the Defendants' ill-gotten gains, as well as injunctive and  
17 declaratory relief, from each of the aforementioned Defendants as may be made more  
18 appropriately determined at trial.

19 45. Plaintiff is entitled to its attorneys' fees from the Defendants for enforcing California  
20 Business and Professions Code Section 17200 as it meets the standards of a private attorney  
21 general as specifically and statutorily defined under California Civil Procedure Section 1021.5.  
22

23 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

24 **As to the First Count:**

25 26 27 28 1. For statutory damages in the amount of \$110,000.00 against the Defendants,  
and each of them, and

- 1       2. For reasonable attorneys' fees as mandated by statute, and
- 2       3. For all costs of suit, including but not limited to filing fees, service of
- 3              process fees, investigative costs, and
- 4       4. For such other and further relief as this Honorable Court may deem just  
and proper;

5

6       **As to the Second Count:**

- 7       1. For statutory damages in the amount of \$60,000.00 against the Defendants,  
and each of them, and;
- 8       2. For reasonable attorneys' fees as may be awarded in the Court's  
discretion pursuant to statute, and;
- 9       3. For all costs of suit, including but not limited to filing fees, service  
of process fees, investigative costs, and;
- 10      4. For such other and further relief as this Honorable Court may deem just  
and proper.

11

12       **As to the Third Count:**

- 13      1. For compensatory damages in an amount according to proof against the  
Defendants, and each of them, and;
- 14      2. For exemplary damages against the Defendants, and each of them, and;
- 15      3. For punitive damages against the Defendants, and each of them, and;
- 16      4. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant  
to statute, and;
- 17      5. For all costs of suit, including but not limited to filing fees, service of process fee,  
investigative costs, and;
- 18      6. For such other and further relief as this Honorable Court may deem just and proper.

19      ///  
20      ///  
21      ///

As to the Fourth Count:

1. For restitution to the Plaintiff in an amount according to and from the Defendants,  
2. for their ill-gotten gains, and;
3. For declaratory relief, and;
4. For prohibitory and mandatory injunctive relief, and;
5. For reasonable attorneys' fees as may be awarded in the Court's  
6. discretion pursuant to statute, and;
7. For all costs of suit, including but not limited to filing fees, service  
8. of process fees, investigative costs, and;
9. For such other and further relief as this Honorable Court may deem just and proper.

Respectfully submitted,

Dated:

*12/22/13*

**LAW OFFICES OF THOMAS P. RILEY, P.C.**

By: Thomas P. Riley  
Attorneys for Plaintiff  
J & J Sports Productions, Inc.